

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 99-0056

Individual Income Tax

Calendar Year 1997

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Adjusted Gross Income – Addback Real Estate taxes

Authority: IC 6-3-1-3.5(a)

Taxpayer protests the addback of real estate taxes.

STATEMENT OF FACTS

Taxpayer is a shareholder in Company X; a Subchapter S Corporation located in Bloomington, Indiana. The K-1 from Company X failed to include real estate taxes to be added back by its shareholders although Company X deducted the tax. The auditor added back fifty percent (50%) of the tax to each shareholder's income.

The corporation failed to report the addback to its shareholders although it was deducted.

I. Adjusted Gross Income – Addback of real estate taxes

DISCUSSION

Taxpayer protests the addback of real estate taxes and states that the real estate taxes flowed through from Company Y, a realty partnership, to the shareholders. Also Company Y actually owns the property and by adding back the tax from Company X would be double taxation.

Company X deducted real estate taxes on its IT- 20S and failed to include it for each shareholder's Schedule K-1. The fact that company Y deducted the same tax, which was added back by the

taxpayer, has no effect on the amount reported. If the corporation deducted real estate taxes, it is required to be added back. Both Company X and Company Y deducted real estate taxes which must be added back. The fact that both companies deducted the same tax has no effect. If both companies deducted the tax, it must be added back for each company, in this case, as a flow through to the shareholder.

The department finds that there is no double taxation because each taxpayer stands on its own. Both Company X and Company Y deducted real estate taxes which must be added back on the K-1 schedule.

FINDING

Taxpayer's protest is denied.